

**MINUTES**  
**REGULAR MEETING OF BOARD OF LAND COMMISSIONERS**  
**March 17, 2008, at 9:00 a.m.**  
**Room 303 State Capitol Building**  
**Helena, Montana**

PRESENT: Governor Brian Schweitzer, Attorney General Mike McGrath, Superintendent of Public Instruction Linda McCulloch, Secretary of State Brad Johnson (present for agenda items 308-3 through 308-9), and State Auditor John Morrison

Ms. McCulloch moved for approval of the minutes from the February 19, 2008, meeting of the Board of Land Commissioners. Seconded by Mr. Morrison. Motion carried unanimously.

**BUSINESS CONSIDERED:**

308-1            OIL & GAS LEASE SALE

Ms. Sexton stated that the oil and gas lease sale had been held March 5, 2008. Fifty-four tracts covering 19,496.89 acres were offered and leased for a total of \$240,197 with an average bid of \$12.32 per acre. The high bid was \$46.00 per acre and the largest total bid was for a tract in Toole County for \$23,000. There was broad bidding and the DNRC is on track to gross between \$32 million to \$35 million for oil and gas in 2008. There has been a slight decline in production this year.

Motion was made by Mr. Morrison for the approval of the lease sale. Seconded by Ms. McCulloch. Motion carried 4-0.

308-2            APPROVAL FOR COMMUNITIZATION AGREEMENT – DEVON ENERGY

Ms. Sexton stated that this is a request for a communitization agreement with Devon Energy in Blaine County for 640 acres. The DNRC owns 320 acres of the land and would receive 6.25 percent of gas production.

Motion was made by Mr. McGrath to approve the communitization. Seconded by Ms. McCulloch. Motion carried 4-0.

308-3            CBNG WELL DRILLING APPLICATIONS – WADDLE CREEK AND FORK'S RANCH (PINNACLE GAS)

Ms. Sexton stated this item is the MEPA analysis for a proposal from Pinnacle Gas Resources for coal bed natural gas production on the Waddle Creek and Fork's Ranch Plans of Development (PODs). These sections are both state sections and the EA was done in conjunction with the Board of Oil and Gas Conservation. The proposal is for 32 wells with 16 wells per section and two evaporation pits per section. There were six public comments received between January 30, 2008, and March 3, 2008. No substantive changes have been made to the PODs.

Brenda Lindlief-Hall, representing the Tongue River Water Users Association, stated that there is concern regarding soil damage from the salinity and sodium in the waters from

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the evaporation pits. TRWUA believes the water should be treated and placed in storage tanks for beneficial use. TRWUA also would prefer that any water rights regarding water stored for beneficial use be retained by the state or given to the party that was beneficially using the water.

Motion was made by Ms. McCulloch to approve the PODs. Seconded by Mr. Johnson.

Mr. Morrison asked what were the previous experiences with evaporation pits in regards to effects on the soil and if evaporation pits were a good means of water management?

Bobbi Jo Coughlin, DNRC Minerals Management Bureau, stated that the pits are lined and off-channel and the installed monitors have shown no effects on the soil so far.

Mr. McGrath asked if someone could apply to put the water to beneficial use?

Ms. Coughlin said yes. The production companies have been responsive to those types of requests and the water rights would be filed under the DNRC's name, not the rancher's.

Governor Schweitzer asked what the aquifer recharge timeline and sources were?

Ms. Coughlin said the majority of the recharge happens in five to ten years, at which point the process slows. Full recharge could take from 70 to 100 years. All of the water will not be drained from the aquifer, so recharge would not be starting from scratch.

Governor Schweitzer asked how many wells per section?

Ms. Coughlin said 16 wells.

Governor Schweitzer asked what would be the flow of water from each well?

Ms. Coughlin stated that the initial flow would be about 25 gallons per minute which would quickly fall to about three gallons per minute.

Governor Schweitzer asked if stock water was the primary beneficial use?

Ms. Coughlin said yes. No other beneficial uses have been approved.

Governor Schweitzer asked Ms. Coughlin to calculate the number of cattle that could be watered on one section for one day. The result was 16,457 cattle per section per day. Governor Schweitzer pointed out that in order to put the water to beneficial use the storage tanks would have to occupy most of the land, which would not be feasible. Governor Schweitzer asked what percent of the section the evaporation pits would occupy?

Ms. Coughlin said each pit is 4.5 acres and the evaporation pits would occupy 1.4 percent of each section.

Governor Schweitzer observed that the amount of space required was the problem with using the beneficial use for anything other than irrigation.

Ms. Sexton stated that there are three approved uses permitted for CBNG resultant water: stock, irrigation, and dust abatement. There had been a fourth request that the water be transported to Wyoming, but that request was denied by the Water Resources Division and is currently being challenged in court.

Motion carried unanimously.

308-4            OIL AND GAS LEASE STIPULATION CORRECTION

Ms. Sexton stated this is a correction to an oil and gas lease stipulation for a lease in Teton County. The lease was issued with the Rocky Mountain Front stipulation, but it is in an existing field designated for development with existing producing wells. The DNRC recommended replacing the Rocky Mountain Front stipulation with a Sensitive Area stipulation. This replacement would allow the department to review the proposed location with input from FWP rather than automatically triggering an EIS (unless MEPA review indicates the need for further review).

Mr. McGrath asked if item 308-1 was passed with the Rocky Mountain Front stipulation.

Ms. Sexton said yes, but that in the instance of 308-4 there are already existing wells.

Mr. McGrath asked if due to the existing wells there could be potential litigation issues if the Rocky Mountain Front stipulation were to be imposed.

Ms. Sexton said yes. DNRC standard practice is to utilize the Sensitive Area stipulation if there are existing fields.

Motion made by Mr. McGrath to approve the stipulation correction. Seconded by Ms. McCulloch. Carried unanimously.

Items 308-5 through 308-8 were considered as a block.

308-5            PRELIMINARY APPROVAL FOR SALE OF LAND BANKING PARCELS–  
# 17,18,56 AND 57

308-6            PRELIMINARY APPROVAL FOR SALE OF LAND BANKING PARCELS–  
# 305,384,385,386,470 AND 467

308-7            PRELIMINARY APPROVAL FOR SALE OF LAND BANKING PARCELS–  
#383

308-8            PRELIMINARY APPROVAL FOR SALE OF LAND BANKING PARCELS–  
#466

Ms. Sexton stated the parcels for preliminary approval are located in Liberty, Toole, Sweet Grass, Carbon, and Yellowstone Counties. Some of the parcels were proposed by the DNRC and some parcels were proposed by the lessees. Many of the DNRC tracts are smaller 40-acre tracts that are difficult to manage and have no legal access. Four parcels are located in Liberty and Toole Counties (308-5); six are located in Sweet

Grass County (308-6); one tract of 64 acres is in Carbon County (308-7); and one tract is in Yellowstone County near Billings (308-8), which is zoned for development, but has an overhead power line that would make development challenging.

Mr. Morrison asked what is in store for future parcel acquisition?

Ms. Sexton stated that the DNRC has three different parcels that have received preliminary approval: the Vandalia Ranch near Glendive, in which the DNRC is partnering with FWP; a piece in Teton County near Choteau which is being considered for dry-land farming; and the Tupper Lakes which is part of the Blackfoot Challenge Project.

Ms. McCulloch asked what percentage of the \$20 million land banking goal would be achieved by the sale of 308-5 through 308-8?

Tom Schultz, Trust Land Management Administrator, stated that there is currently approximately \$3.6 million in the land bank. The addition of 308-5 through 308-8 plus those parcels already given preliminary approval by the Land Board would bring the total to \$4.5 million (22.5 percent of goal).

Ms. McCulloch asked if the old runway indicated on Parcel No. 383 (308-6) would impact the sale?

Jeanne Holmgren, DNRC Real Estate Management Bureau Chief, stated that there appeared to be no impact and that there are parties interested in buying that parcel.

Motion made by Mr. McGrath for preliminary approval of the land banking parcels. Seconded by Mr. Johnson. Carried unanimously.

308-9A RIGHTS-OF-WAY

Ms. Sexton stated that these are standard right-of-way applications. Two are for new telephone utilities, several are for historic private road access, and one is a private access easement for McClellan Creek Homeowners Association in Jefferson County.

Motion made by Mr. McGrath to approve the right-of-way applications. Seconded by Mr. Johnson. Carried unanimously.

308-9B RECIPROCAL ACCESS AGREEMENT – STIMSON LUMBER COMPANY

Ms. Sexton stated that this is a reciprocal access agreement with Stimson Lumber Company. DNRC land is intermingled with Stimson Lumber property and the DNRC would grant a right-of-way for perpetual non-exclusive easement for the purposes of constructing, reconstructing, maintaining, repairing, and using a road or road segment for all lawful purposes. The reciprocal agreement would provide permanent access and utilities for 459 acres of state trust land. Stimson Lumber already has roads that lead up to state land and the reciprocal access agreement would allow the DNRC access for timber harvesting. The DNRC would owe Stimson Lumber about \$3300, which would be

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paid on or before June 30, 2008. The one percent conveyance fee would be applicable for any further subdivision of the property.

Motion made by Mr. Johnson to approve the reciprocal access agreement. Seconded by Mr. McGrath. Carried unanimously.

Motion to adjourn made by Mr. Morrison. Seconded by Mr. Johnson.